IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

C.W.P. No. 13350 of 2006
Date of Decision: Nov. 28,2006

Bahadur Singh and others ..... Petitioners

Versus

Financial Commissioner (Cooperation), Punjab and others ..... Respondents

Coram: Hon'ble Mr. Justice Ashutosh Mohunta
Hon'ble Mrs. Justice Nirmal Yadav

Present: Mr. G.P.Vashist, Advocate
for the petitioners.

Mr. C.M.Munjal, Sr. Addl. A.G. Punjab,
for respondent No.1.

Mr. Gur Rattan Pal Singh, Advocate,
for respondent Nos. 2, 3, 7 and 8.

Mr. Shekhar Verma, Advocate
for respondent No.18.

...

ASHUTOSH MOHUNTA, J. (Oral)

The petitioners have filed the present petition impugning the order-Annexure P4 by which the stay granted to the petitioners has been vacated.

Counsel for the petitioners contends that the main case was fixed for 18.8.2006 before the Financial Commissioner. One of the respondents had filed an application for preponing the case. It is contended that without preponing the case, the stay granted in favour of the petitioners has been vacated vide order dated 11.8.2006. Learned counsel contends that as the main case was fixed for 18.8.2006, therefore the stay order could not have been vacated on 11.8.2006.

Mr. Gur Rattan Pal Singh, learned counsel for respondent Nos. 2, 3, 7 and 8, states that the case is fixed before the Financial Commissioner

for 15.12.2006 and that these respondents will have no objection if the appeal is ordered to be decided on that date.

Counsel for the bank (respondent No.18) has, however, opposed the grant of stay to the petitioners.

A perusal of the facts of the present case shows that the case was listed for hearing on 18.8.2006. The stay order has been vacated on 11.8.2006 on an application filed for preponing. On that date, the case was kept only for consideration of the preponing application as is clear from the order Annexure P-3. Thus, the stay order granted in favour of the petitioners could not have been vacated on 11.8.2006 without hearing the counsel for the petitioners.

In view of the above, we set aside the order-Annexure P-4 with the direction that the Financial Commissioner shall decide the appeal filed by the petitioners on the next date of hearing i.e. on 15.12.2006 and if for some reason the appeal cannot be decided on that date then the same be decided within a further period of two months.

Till a final decision is taken by the Financial Commissioner, the petitioners shall not be dispossessed.

It is made clear that in case the petitioners fail to effect service on some of the respondents then the stay order granted to the petitioners may be vacated by the Financial Commissioner.

Petition disposed of.

(ASHUTOSH MOHUNTA)
JUDGE

28.11.2006 **(NIRMAL YADAV)**
rupi **JUDGE**